

# City of Des Moines/Des Moines Municipal Employees Assn.

2004-2005  
CEO 213  
SECTOR 3

IN THE MATTER OF FACT-FINDING

BETWEEN

REPORT OF FACT-FINDER

CITY OF DES MOINES, IOWA

January 31, 2005

AND

DES MOINES MUNICIPAL EMPLOYEES ASSOCIATION

## I. APPEARANCES

For the City:

Mr. Frank Harty, Attorney at Law and Spokesperson

Mr. Tom Turner, Human Resources Director

Ms. Carol J. Moser, Assistant City Attorney

Mr. Allen McKinley, Research and Budget Officer

Mr. Dale P. Patch, Des Moines Police Department

For the Association:

Mr. Charles Gribble, Attorney at Law and Spokesperson

Mr. Tore Nelson, Association President

Mr. Terry Loy, Association Vice President

Mr. Wayne Newkirk, Economist

Ms. Judy Gracey, Association Secretary

Ms. Rita Fromm, Association Board Member

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## II. BACKGROUND

The undersigned was selected by mutual agreement of the parties to conduct a fact-finding hearing under the statutory impasse procedures of the Iowa Public Employment Relations Act, Sections 20.19 and 20.21. The hearing was held Thursday, January 20, 2005 at the Embassy Suites Hotel, Des Moines, Iowa. The hearing was formally opened at 9:50 a.m. and closed at 1:45 p.m. after both parties' presentation of evidence and oral argument. The parties agreed that this report should be completed and mailed within fifteen days of the close of the hearing (postmarked no later than Friday, February 4, 2005).

The City of Des Moines (hereafter also referred to as "City" or "Employer") is located near the center of Iowa and is the political, economic and cultural capital of the state. The City is a center of insurance, printing, finance, retail and wholesale trades, as well as industry, providing a diverse economic base. The City of Des Moines has a population of 199,000 and occupies 78.1 square miles. Surrounded by rapidly growing communities, the Core-Based Statistical Area has a population of over 500,000 extending into five contiguous counties. The City operates under the council-manager-ward form of government. The City Council consists of a mayor elected at large, two council members elected at large and one council member elected from each of four wards as established by ordinance for terms of four years. The mayor is the chief executive officer and representative of city government. The city manager is responsible for a large, varied, multiple-purpose municipal organization representing a workforce of approximately 1950 employees and an annual general fund-operating budget of \$137 million.

The Municipal Employees Association (hereafter also referred to as "MEA" or "Association") represents 385 "white-collar" employees in a variety of positions from clerk/typist to systems administrator in the City's public works and waste treatment departments.<sup>1</sup> The current contract is a two-year agreement dated, July 1, 2003 through June 30, 2005. The MEA and the City have been parties to collective bargaining agreements since 1977.<sup>2</sup> There are three other large bargaining units: Police (270 employees), Fire (286 employees), and CIPEC (600 employees and referred to in the Association's opening statement as the "blue-collar" unit). There is also an AFSCME unit (50 employees) and two library units represented by IAMAW: Clerks (25-30 employees) and Professionals (25-30 employees).<sup>3</sup>

The following four issues were presented to the fact-finder: (1) wages, (2) health insurance, (3) disability insurance, and (4) grievance arbitration language.

Although there are no statutorily mandated criteria to be applied or considered by fact-finders under the Iowa Public Employment Relations Act, the statute does list specific criteria to be considered by an interest arbitrator. Section 22, Paragraph 9 of the Iowa Public Employment Relations Act directs arbitrators to consider, in addition to any other relevant factors, the following factors:

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<sup>1</sup> The City's brief describes the unit as "approximately 340" employees. Both parties agree that the number of employees in the bargaining unit has been dropping in recent years. The Association's opening statement asserts that the number of employees has dropped from 416 to 385 in the first year of the current contract (July 1, 2003 to July 1, 2004).

<sup>2</sup> 1977 was the year cited in the Association's opening statement. During evidence presented at this hearing regarding grievance arbitration language, a contract dated 1976 was cited.

<sup>3</sup> These unit sizes, based on number of employees, are approximations which the parties agreed are accurate to within five or ten percent (5%-10%).

1. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
2. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
3. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
4. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

While recognizing that the present matter is not an arbitration proceeding, the assessment of the evidence and the findings and recommendations contained herein have taken into consideration the above criteria.

### III. ISSUE-BY-ISSUE DISCUSSION AND RECOMMENDATION

Although the following discussion is presented in an issue-by-issue order, the fact-finder has studied all of these impasse issues as sub-parts of a combined total impasse and the fact-finder's recommendations are to be understood in their total context.

#### 1. Wages:

The Association is proposing a 4.5% increase to wages whereas the City is proposing a 1.5% increase. The Association argues that its proposal is supported by internal and external comparability and cost of living considerations. The City argues that its proposal is supported by internal comparability and that internal comparisons are more relevant than comparisons to other public employees working for other public employers.

City Exhibit #2, entitled, "Contract Settlements Between the City of Des Moines and its Bargaining Units 1997 through 2005," provides convincing evidence that a three percent (3.0%) wage increase is the most appropriate recommendation for this fact-finding. Excluding the Fire and Police units, this exhibit reports that for the nine years in question, and the five units involved, three percent (3%) annual wage increases occurred in thirty-six (36) out of the forty-four (44) possible annual increases.<sup>4</sup> The Fire and Police units had three percent (3%) increases from 1997 through 1999, and then the City committed "to make the protective services the highest paid in the State."<sup>5</sup>

The Association's external comparability arguments are unable to overcome such a strong internal history of past bargaining within the City's units. Likewise, the Association's projected future cost-of-living increases fail to persuade the fact-finder to recommend a higher annual increase at this time.

The fact-finder recommends a three percent (3%) wage increase.

## 2. Health Insurance:

The Association is proposing to leave the current contract language regarding health insurance unchanged. The City argues that employees must pay a greater amount toward their health and dental insurance. As such, the City is proposing that employees selecting family coverage will begin to contribute monthly, an amount equal to five percent (5%)

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<sup>4</sup> The Library Professionals did not start bargaining until 1998 and their first contract is reported as a 2.9% increase. This unit is reported to have three percent (3%) increases every year thereafter, including July 1, 2005. There is no unit reporting greater than a three percent (3%) increase for July 1, 2005. The AFSCME unit is reported as a two percent (2%) increase for July 2004, a one and one-half percent (1½%) increase for January, 2005, and a one and one-half percent (1½%) increase for July 1, 2005. Just this week, January 17, 2005, Fact-Finder Hill recommended a three percent (3%) increase for the Police unit for July 1, 2005.

<sup>5</sup> Marvin Hill, Jr., Fact-Finding Report, January 17, 2005, page 9. In this report, Fact-Finder Hill recommends a three percent (3%) increase for Police for July 1, 2005, stating, "It succeeded." Ibid.

of the difference between the family and single premium. This contribution will be made on a pre-tax basis. The City's proposal also includes changes in the deductible, out-of-pocket maximum, and prescription drug coverage, to make it identical to the insurance coverage provided to the library units and other unrepresented City employees.

The Association believes that there is no need to change the current language, especially when the current language is the result of mutually agreed changes that took effect January 1, 2004 and which resulted in increased costs to the unit employees and significant savings to the City.

The fact-finder agrees that language changes to the parties' current contract should not be recommended by a neutral without strong documentation that the existing contract language is causing unreasonable hardship to one of the parties and that the other party is unreasonably refusing to agree to any change(s) which would address said hardship. There is a long history of prior bargaining by these parties that has resulted in the current contract's language. Language which was recently agreed to be changed to address, at least some of, the City's concerns. A neutral cannot know what prior "bargains" might be destroyed or disrupted by unnecessarily recommending changes to previously negotiated contract language.

As such, the fact-finder is recommending no changes to the current health insurance language at this time.

### 3. Disability Insurance:

The Association proposes changing the current collective bargaining agreement by increasing the City's obligation with respect to long-term disability insurance. At

present, the contract calls for the City to provide long-term disability insurance that provides the employee with 60% of his or her annual salary for two (2) years. (Article XXV, Insurance, Section D. Long Term Disability). The Association proposes increasing this amount to 66 2/3% of an employee's base regular pay and longevity and to remove the two-year limitation.

For the reasons noted in the discussion involving proposed changes to the current health insurance language, the fact-finder recommends no changes to the current long-term disability language. A neutral cannot know what prior "bargains" might be destroyed or disrupted by unnecessarily recommending changes to previously negotiated contract language.

4. Grievance Arbitration Language:

The Association is proposing to change the current contract language by deleting the first sentence from the following paragraph (along with the first word of the second sentence for grammatical correctness) from Article IX, Settlements of Disputes, Section B. Limitations:

The arbitrator shall not have the power to decide a grievance, which is a mater (sic) suitable for submission to the Civil Service Commission. Also, [T]he arbitrator shall be without power to add to, subtract from or modify the terms of this Agreement, not to make any decision in conflict with the laws of the State of Iowa or the ordinances of the City of Des Moines, Iowa.

At this hearing, the Association indicated that it will file a negotiability dispute petition with the Iowa Public Employment Relations Board regarding this language. The parties agreed that the fact-finder is to rule on this proposed language change, unless explicitly stayed by the Board.

The fact-finder has received no notice to stay and, for the reasons noted in the discussion involving changes to insurance language, the fact-finder recommends no change to the current contract's grievance language. There is insufficient evidence that there have been any significant problems caused due to the current contract language and the parties have agreed to this language, unchanged, for many years.

V. SUMMARY

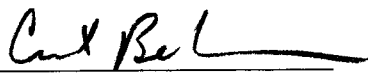
The fact-finder recommends:

1. An across-the-board wage increase of three percent (3%).
2. No change to the current contract's health insurance language.
3. No change to the current contract's disability insurance language.
4. No change to the current contract's grievance arbitration language.

All of the issues that were presented have been discussed and it is hoped that the fact-finder's recommendations will prove helpful to the parties.

Dated this 31<sup>st</sup> day of January,  
2005, Sycamore, Illinois.

Respectfully submitted,

  
Curtiss K. Behrens  
Fact-Finder



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CERTIFICATE OF SERVICE

I certify that on the 31<sup>st</sup> day of January, 2005, I served the foregoing Report of Fact-Finder upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

Mr. Frank Harty  
Nyemaster, Goode, West, Hansell & O'Brien  
700 Walnut Street, Suite 1600  
Des Moines, Iowa 50309-3899

Mr. Charles E. Gribble  
Parrish Law Firm  
2910 Grand Avenue  
Des Moines, Iowa 50312-4205

I further certify that on the 31<sup>st</sup> day of January, 2005, I submitted this Report for filing by mailing it to the Iowa Public Employment Relations Board, 510 East 12<sup>th</sup> Street, Suite 1B, Des Moines, Iowa 50319.

  
Curtiss K. Behrens, Fact-Finder